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12 *CRM* RMW  
 13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN JOSE DIVISION

CV 08-80040MSC PVT

16 IN THE MATTER OF A DEPOSITION  
 17 SUBPOENA SERVED IN:

18 Case No. \_\_\_\_\_

19 F.B.T. PRODUCTIONS, LLC AND EM2M,  
 20 LLC,21 [Related to Case No. CV07-3314 PSG (MANx)  
 22 (C.D. Cal.)]

23 Plaintiffs,

24 v.

25 AFTERMATH RECORDS, INTERSCOPE  
 26 RECORDS, UMG RECORDING, INC.,  
 27 AND ARY, INC.,

28 Defendants.

NOTICE OF MOTION AND MOTION FOR  
 PROTECTIVE ORDER TO QUASH "APEX"  
 DEPOSITION SUBPOENA;  
 MEMORANDUM OF POINTS AND  
 AUTHORITIES IN SUPPORT THEREOF

[Declarations of Colin B. Vandell and Kevin  
 Saul; and Exhibits filed concurrently herewith]

Hearing: [To Be Set By Court]  
 Date: TBD  
 Time: TBD  
 Place: Courtroom TBD  
 280 South 1<sup>st</sup> Street  
 San Jose, CA 95113

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 NOTICE IS HEREBY GIVEN THAT, on \_\_\_\_\_, 2008, at \_\_\_\_\_, or as soon  
 3 thereafter as the matter may be heard, at the United States District Court for the Northern District  
 4 of California, San Jose Division, located at 280 South 1st Street, San Jose, CA 95113, non-party  
 5 deponent Steve Jobs will and hereby does move for an order quashing a deposition subpoena and  
 6 preventing his deposition by Plaintiffs F.B.T. Productions, LLC and Em2M, LLC ("Plaintiffs").

7 This Motion is brought on the grounds that the deposition is impermissibly  
 8 burdensome under Federal Rules of Civil Procedure 26 and 45, particularly because Mr. Jobs and  
 9 Apple Inc. ("Apple") are not parties to this dispute, Mr. Jobs has no personal knowledge  
 10 regarding the issues raised in the dispute, and Plaintiffs have not met, and cannot meet, the high  
 11 burden of justifying an "apex" deposition of a non-party.

12 This motion is based on this Notice of Motion; the attached Memorandum of  
 13 Points and Authorities; the concurrently filed Declarations of Colin B. Vandell and Kevin Saul;  
 14 the other papers on file herein; and such other matters as may be considered at the hearing. This  
 15 motion follows after a good faith conference between counsel for Mr. Jobs and for Plaintiffs  
 16 pursuant to Federal Rule of Civil Procedure 26(c).

17 Dated: March 24, 2008

LATHAM & WATKINS LLP

Daniel Scott Schecter

Colin B. Vandell

19 By

*Daniel Scott Schecter /c*  
 20 Daniel Scott Schecter  
 21 Attorney for Non-Party Deponent Steve Jobs

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

I.

## **INTRODUCTION**

4 Non-party Steve Jobs, the CEO of Apple Inc. (“Apple”), brings this motion to  
5 quash a deposition subpoena that was served in blatant disregard of the well-established doctrine  
6 precluding “apex” depositions of senior corporate officials. Recognizing the burden imposed on  
7 corporations by depositions of senior corporate officials, federal courts have prohibited “apex”  
8 depositions of such officials, even where their corporate employers are parties to the pending  
9 litigation. See, e.g., Thomas v. Int’l Bus. Machs., 48 F.3d 478, 481 (10th Cir. 1995); Salter v.  
10 Upjohn Co., 593 F.2d 649, 652 (5th Cir. 1979); Lewelling v. Farmers Ins. of Columbus, Inc., 879  
11 F.2d 212 (6th Cir. 1989).

12                   Here, neither Mr. Jobs nor Apple is a party to the underlying proceeding, F.B.T.  
13 Productions, LLC v. Aftermath Records, Case No. CV07-3314 PSG (MANx) (C.D. Cal.) (“FBT  
14 Action”). Plaintiffs have made no showing whatsoever to justify the extraordinary measure of  
15 deposing the extremely busy CEO of a non-party.

16 The FBT Action raises breach of contract claims requiring the interpretation of  
17 certain agreements between a recording artist, music publisher and record labels. Mr. Jobs and  
18 Apple are not parties to these agreements and were not involved, directly or indirectly, in  
19 negotiating or drafting these agreements. Plaintiffs' sole purported reason for seeking Mr. Jobs's  
20 deposition arises from an essay he wrote a year ago entitled *Thoughts on Music*. In this essay,  
21 Mr. Jobs used the term "license," not in reference to a particular agreement, but as a general term  
22 referring to digital distribution of music. Plaintiffs have seized on the term "license" as  
23 somehow relevant to their dispute over the interpretation of their agreements with the music  
24 publisher and record label defendants. Because Mr. Jobs's opinions on the digital distribution of  
25 music have no bearing on these contractual interpretation issues, and a deposition would be very  
26 disruptive to his demanding schedule, the subpoena should be quashed and the deposition  
27 precluded.

III.

## **FACTUAL BACKGROUND**

#### **A. Procedural Background.**

4 On May 21, 2007, Plaintiffs F.B.T. Productions, LLC and Em2M, LLC  
5 commenced the FBT action against Defendants Aftermath Records, Interscope Records, UMG  
6 Recordings, Inc., and Ary, Inc. (the "UMG Defendants"), asserting claims for breach of contract  
7 and declaratory judgment. (Vandell Decl., ¶ 2.) Plaintiffs filed a First Amended Complaint  
8 ("FAC") on June 13, 2007, again asserting breach of contract and declaratory judgment claims.  
9 (Vandell Decl., ¶ 3; Ex. A (First Amended Complaint).)

10 The gravamen of the FAC is the assertion that the UMG Defendants have  
11 underpaid royalties to Plaintiffs with respect to master recordings of performances by Marshall  
12 Mathers, professionally known as “Eminem.” (Vandell Decl., ¶ 4; Ex. A.) Plaintiffs allege that  
13 the UMG Defendants should pay Plaintiffs royalties for digital distribution of Eminem’s  
14 recordings (the “Eminem Masters”) under the “licensing” provisions of agreements between  
15 Plaintiffs and the UMG Defendants (the “UMG Agreements”). Instead, the UMG Defendants  
16 have allegedly calculated the royalties under the less favorable “distribution” provisions of the  
17 UMG Agreements. (Vandell Decl., ¶ 5; Ex. A.)

1 specific content. (Saul Decl., ¶ 5.)

2 On January 11, 2008, Plaintiffs issued a subpoena for documents from Apple (the  
 3 “Apple Document Subpoena”) with numerous broad, irrelevant, and vague requests.<sup>1</sup> (Vandell  
 4 Decl., ¶ 7; Ex. B (Apple Document Subpoena).) The Apple Document Subpoena demanded,  
 5 *inter alia*, any and all agreements – and all communications and other documents relating in any  
 6 way to such agreements – between Apple and UMG regarding music distribution. (Vandell  
 7 Decl., ¶ 9; Ex. B.) The extent of this demand is staggering: UMG has provided more than  
 8 400,000 songs for sale on iTunes in the United States under its confidential Download  
 9 Agreements with Apple. (Saul Decl., ¶ 6.)

10 Apple has conferred numerous times with Plaintiffs in a good faith attempt to  
 11 resolve the overbreadth of the Apple Document Subpoena. (Vandell Decl. ¶ 10.) Apple offered  
 12 to provide, subject to protective order, the confidential Download Agreements that apply to the  
 13 distribution of the Eminem Masters on iTunes. (Vandell Decl., ¶ 11.) Plaintiffs nevertheless  
 14 have indicated their intention to file a motion to compel. (Vandell Decl., ¶ 12.) During this meet  
 15 and confer process, Plaintiffs served a deposition subpoena on Apple CEO Steve Jobs (the “Jobs  
 16 Deposition Subpoena”). (See Ex. D (Jobs Deposition Subpoena).) Despite Apple’s efforts to  
 17 resolve this discovery dispute, including its offer of the Download Agreements, Plaintiffs insist  
 18 on deposing Mr. Jobs.

19 **B. Mr. Jobs, The Founder And CEO Of Apple, Has An Extremely Demanding**  
 20 **Schedule.**

21 A pioneer of the personal computer revolution and one of the world’s best known  
 22 companies, Apple was founded by Mr. Jobs and Steve Wozniak in Mr. Jobs’s garage in 1976.  
 23 (Saul Decl., ¶ 7.) After leaving the company in 1986, Mr. Jobs returned in 1997 to serve on  
 24 Apple’s Board of Directors and later as CEO. (Saul Decl., ¶ 8.) As Apple’s CEO, Mr. Jobs  
 25 currently has responsibilities for a multinational company with more than 20,000 permanent and

26 <sup>1</sup> The Apple Document Subpoena was served on Apple in violation of Federal Rule of  
 27 Civil Procedure 45; no prior notice was provided to Defendants. (Vandell Decl., ¶ 8; Ex. C  
 28 (Letter from UMG Defendants’ counsel to Plaintiffs’ counsel, dated Jan. 22, 2008).)

1 temporary employees worldwide and fiscal year 2007 revenues of \$24 billion. (Saul Decl., ¶ 9)  
 2 Apple markets and develops a wide variety of groundbreaking products and services, from its  
 3 Mac OS X operating system to its revolutionary iPhone. (Saul Decl., ¶ 10.) Mr. Jobs is  
 4 responsible not only for Apple's overall strategy and operations, he also plays a key role in the  
 5 design and development of Apple's products. (Saul Decl., ¶ 11.)

6 In 1986, Mr. Jobs founded and became CEO of Pixar Animation Studios, a  
 7 computer animation company known for its award-winning movies such as *Toy Story* and  
 8 *Finding Nemo*. (Saul Decl., ¶ 12.) In 2006, The Walt Disney Company acquired Pixar. (Saul  
 9 Decl., ¶ 13.) As a result of this acquisition, Mr. Jobs serves as a director of The Walt Disney  
 10 Company. (Saul Decl., ¶ 14.)

11 Mr. Jobs is extremely busy meeting the diverse duties and requirements of his  
 12 roles as the chief executive officer and director of Apple and a director of The Walt Disney  
 13 Company. Mr. Jobs's time is an important asset, and he carefully manages his schedule to  
 14 ensure that he can devote the necessary energy and attention to the myriad challenges facing both  
 15 companies. (Saul Decl., ¶ 15.)

16 During the meet and confer process, Plaintiffs' sole explanation for the relevance  
 17 of Mr. Jobs's deposition is the fact that he authored the essay, *Thoughts on Music*. (Vandell  
 18 Decl., ¶ 13; Ex. E (*Thoughts on Music* essay).) Plaintiffs have seized on a single sentence in the  
 19 essay: "Since Apple does not own or control any music itself, it must license the rights to  
 20 distribute music from others, primarily the 'big four' music companies." (See Ex. E (*Thoughts*  
 21 *on Music* essay).) Plaintiffs assert that the deposition would seek to explore Mr. Jobs's  
 22 interpretation of the term "license." (Vandell Decl., ¶ 14.) *Thoughts on Music*, however, is a  
 23 discussion of Mr. Jobs's views on the current status and prospects of "digital rights  
 24 management" systems used by Apple and other companies to prevent unauthorized copying of  
 25 music. (Saul Decl., ¶ 16; Ex. E.) The essay, which is intended for a popular audience, does not  
 26 constitute a legal opinion or analysis of contractual rights and obligations. It does not discuss the  
 27 FBT Action, the UMG Agreements or any other arrangements between artists and record  
 28 companies. Nor does it analyze the structure of agreements between record labels and digital

1 service providers. (Saul Decl., ¶ 17; Ex. E.) In short, the essay has no bearing on the contract  
 2 disputes between Plaintiffs and the UMG Defendants.

3 **III.**

4 **ARGUMENT**

5 **A. The Federal Rules Prohibit Harassing And Burdensome Discovery.**

6 Under Federal Rule of Civil Procedure 26 ("Rule 26"), courts have the obligation  
 7 to limit discovery to "avoid . . . harassment, expense, and burdensomeness." Baine v. General  
 8 Motors Corp., 141 F.R.D. 332, 334 (M.D. Ala. 1991) (deposition subpoena of vice president of  
 9 General Motors quashed). Rule 26 "specifically gives the Court authority to limit discovery if it  
 10 determines that the discovery sought is obtainable from other sources, that is, those that are more  
 11 convenient and less burdensome." Mulvey v. Chrysler Corp., 106 F.R.D. 364, 366 (D.R.I. 1985)  
 12 (deposition subpoena of Chrysler Chairman quashed). Courts are required to limit discovery if  
 13 the burden or expense outweighs the demanded discovery's probable benefits. See Fed. R. Civ.  
 14 P. 26(b)(2)(C)(iii). Federal Rule of Civil Procedure 45 ("Rule 45") also underscores a court's  
 15 duty to prevent undue burden and expense imposed by a deposition subpoena: "A party or  
 16 attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid  
 17 imposing undue burden or expense on a person subject to the subpoena. The issuing court must  
 18 enforce this duty and impose an appropriate sanction – which may include lost earnings and  
 19 reasonable attorney's fees – on a party or attorney who fails to comply."

20 Federal courts have applied these principles to protect non-parties from  
 21 burdensome discovery. See Dart Industries Co. Inc. v. Westwood Chemical Co., Inc., 649 F.2d  
 22 646, 649 (9th Cir. 1980) (discovery should be "limited" in order to "protect" non-parties from  
 23 "harassment, inconvenience, or disclosure of confidential documents.") Federal courts have also  
 24 consistently applied these principles to preclude "apex" depositions of high corporate officials,  
 25 even where their corporate employees are parties to the underlying litigation. See, e.g., Thomas,  
 26 48 F.3d at 481 (protective order was properly granted that prohibited the deposition of IBM's  
 27 Chairman); Salter, 593 F.2d at 652 (deposition subpoena served on the president of the defendant  
 28 Chairman).

1 company; district court correctly issued a protective order stopping the apex deposition);  
 2 Lewelling, 879 F.2d at 218 (protective order properly granted to prohibit the deposition of the  
 3 Chairman and CEO of the defendant company's subsidiary). Non-parties may contest discovery  
 4 demands by seeking a protective order in the court where an action is pending, or – in the case of  
 5 deposition subpoenas – in the court for the district where the deposition is scheduled to be taken.  
 6 See Fed. R. Civ. P. 26(c).

7       **B.       The Jobs Deposition Subpoena Must Be Quashed.**

8               Rules 26 and 45 require that the Jobs Deposition Subpoena be quashed for several  
 9 reasons. First, the requested discovery is not calculated to lead to the discovery of admissible  
 10 evidence. Mr. Jobs's opinions as expressed in *Thoughts on Music* have no bearing on the  
 11 contractual dispute between Plaintiffs and the UMG Defendants. Second, even if Mr. Jobs's  
 12 opinions had some remote relevance – which they do not – the requested discovery of a non-  
 13 party must be precluded as unduly burdensome and harassing. Third, Plaintiffs have completely  
 14 failed to meet the exacting standards required to conduct an apex deposition of Apple's CEO.

15       1.       **The Deposition of Mr. Jobs Is Not Reasonably Calculated To Lead To**  
 16       **The Discovery Of Admissible Evidence.**

17               Plaintiffs' lawsuit relates to the proper interpretation of agreements between  
 18 Plaintiffs and the UMG Defendants. Plaintiffs have acknowledged that their sole basis for  
 19 seeking Mr. Jobs's deposition is to question him about his use of the term "license" in *Thoughts*  
 20 *on Music*. (Vandell Decl., ¶¶ 13-14.) But any meaning Mr. Jobs attaches to the word "license" –  
 21 in *Thoughts on Music* or otherwise – has no bearing on the meaning of that term as it is used and  
 22 defined in contracts to which neither Apple nor Mr. Jobs are parties. People ex rel. Lockyer v.  
 23 R.J. Reynolds Tobacco Co., 107 Cal. App. 4th 516, 525 (2003) ("The language of a contract is  
 24 to govern its interpretation' . . . 'When a contract is reduced to writing, the intention *of the*  
 25 *parties* is to be ascertained from the writing alone, if possible.'") (quoting Cal. Civ. Code §§  
 26 1638 and 1639) (emphasis added). Mr. Jobs has not been involved in the FBT Action, nor was  
 27 he or any other Apple employee involved in the drafting of the UMG Agreements between  
 28 Plaintiffs and the UMG Defendants. (Saul Decl., ¶¶ 2-4.) *Thoughts on Music* is written for a

1 popular audience and does not purport to analyze any legal relationship between Apple and any  
2 record labels. (Saul Decl., ¶ 17.) The deposition testimony Plaintiffs seek is thus wholly  
3 irrelevant to their breach of contract claims against the UMG Defendants, and therefore is not  
4 reasonably calculated to lead to the discovery of admissible evidence as required by Rule 26.  
5 See Fed. R. Civ. P. 26(b)(1); Surfvivor Media, Inc. v. Survivor Productions, 406 F.3d 625, 635  
6 (9th Cir. 2005).<sup>2</sup> Accordingly, the protective order must be granted.

**2. The Discovery Sought From Mr. Jobs As A Non-Party Is Unduly Burdensome.**

9 Courts are in broad agreement that non-parties cannot be subjected to discovery  
10 demands as broad as may be warranted on parties to the applicable actions. "Although Rule  
11 26(b) applies equally to discovery of nonparties, the fact of nonparty status may be considered by  
12 the court in weighing the burdens imposed in the circumstances." Katz v. Batavia Marine &  
13 Sporting Supplies, Inc., 984 F.2d 422, 424 (Fed. Cir. 1993). As one court observed, "the most  
14 obvious burden is borne by the non-party witness, and we are instructed to be particularly  
15 sensitive to any prejudice to non-litigants drawn against their will into the legal disputes of  
16 others." Jack Frost Lab., Inc. v. Physicians & Nurses Mfg. Corp., 1994 U.S. Dist. LEXIS 261, at  
17 \*2 (S.D.N.Y. 1994)).

26       2       To the extent Plaintiffs seek to elicit opinion testimony from Mr. Jobs for no other reason  
27 than his position as an influential and well-known executive in the technology industry, and as a  
CEO of a prominent company in the field of digital distribution of audio-visual content, such  
testimony would be inadmissible opinion testimony under Federal Rules of Civil Procedure 701  
and 702.

1 harassment posed by the subpoenaed deposition. See, e.g., Ameristar Jet Charter, Inc. v. Signal  
 2 Composites, Inc., 244 F.3d 189, 193 (1st Cir. 2001) (“a party may not undertake wholly

3 exploratory operations in the vague hope that something helpful will turn up”) (protective order  
 4 issued to quash deposition subpoenas served on four employees of a non-party). On these  
 5 grounds alone, a protective order should issue and the subpoena should be quashed.

6 **3. Plaintiffs Have Failed To Meet The High Burden Of Justifying An**  
**Apex Deposition.**

8 Courts have precluded depositions of senior employees because of the manifest  
 9 potential for harassment, expense, and other burdens posed by such depositions. See, e.g.,  
 10 WebSideStory, Inc. v. NetRatings, Inc., 2007 U.S. Dist. LEXIS 20481 at \*6 (S.D. Cal. 2007)  
 11 (“[W]hen a party seeks to take the deposition of an official at the highest level or ‘apex’ of a  
 12 corporation, the court may exercise its authority under the federal rules [i.e. Rule 26] to limit  
 13 discovery”); Mulvey, 106 F.R.D. at 365 (apex depositions have “become an abusive tool in the  
 14 hands of certain attorneys; the end result is the enactment of procedural rules to curb such  
 15 practices”) (protective order issued that prohibited the apex deposition of Chrysler Chairman Lee  
 16 Iacocca). Here, the showing required for an apex deposition is significantly higher than in a  
 17 typical litigation because neither Mr. Jobs nor Apple is a party to the FBT Action, nor did they  
 18 have any involvement in, or knowledge of, the underlying events. See Batavia Marine, 984 F.2d  
 19 at 424 (non-party status constitutes a burden that cuts against the permissibility of a subpoena).  
 20 Thus, only the most compelling grounds would justify such a deposition. Plaintiffs, however,  
 21 have failed to provide any basis for such an extraordinary request.

22 Courts that have addressed apex deposition subpoenas typically focus on (i)  
 23 whether a more efficient way of procuring information can be followed; and (ii) whether the  
 24 subpoenas aim to harass their targets. See, e.g., Mulvey, 106 F.R.D. at 365-66. Plaintiffs’  
 25 subpoena to Mr. Jobs fails on both counts.

26 It is wholly inefficient and burdensome for Plaintiffs to require Mr. Jobs’s  
 27 participation in a deposition on the subject matter that Plaintiffs insist on covering. When a  
 28 “high-level decision maker removed from the daily subjects of the litigation has no unique

1 personal knowledge of the facts at issue, a deposition of the official is improper.” Celerity, Inc.  
 2 v. Ultra Clean Holding, Inc., 2007 U.S. Dist. LEXIS 8295 at \*8; Thomas, 48 F.3d at 483; Baine  
 3 v. General Motors Corp., 141 F.R.D. 332, 334 (M.D. Ala. 1991). This requirement is stringently  
 4 enforced when “the information sought in the deposition can be obtained through less intrusive  
 5 discovery methods.” Celerity, 2007 U.S. Dist. LEXIS 8295 at \*8; Salter, 593 F.2d at 651.

6 Mr. Jobs does not possess the “unique personal knowledge” necessary to justify  
 7 an apex deposition; indeed, *he does not possess any personal knowledge relevant to the FBT*  
 8 *Action*. Celerity, 2007 U.S. Dist. LEXIS 8295 at \*8; Thomas, 48 F.3d at 483; Baine, 141 F.R.D.  
 9 at 334. Mr. Jobs is the chief executive of a large, multinational corporation with products  
 10 ranging from personal computers, to mobile communication devices, to portable digital music  
 11 players, to online music services, as well as a variety of related software, peripherals, and  
 12 networking solutions. (Saul Decl., ¶ 9.) Mr. Jobs is the epitome of a “high-level decision  
 13 maker” who has no knowledge – much less “unique personal knowledge” – of the issues in  
 14 dispute in Plaintiffs’ lawsuit. See, e.g., Celerity, 2007 U.S. Dist. LEXIS 8295 at \*8 (N.D. Cal.  
 15 2007).

16 Courts also widely recognize that apex deposition subpoenas are particularly  
 17 suspect because of their potential for harassment. See, e.g., id. (“Virtually every court that has  
 18 addressed deposition notices directed at an official at the highest level or ‘apex’ of corporate  
 19 management has observed that such discovery creates a tremendous potential for abuse or  
 20 harassment”); Mulvey, 106 F.R.D. at 365-66. The circumstances surrounding Plaintiffs’  
 21 subpoena strongly suggest an improper, retaliatory motive. Only after Apple objected to  
 22 Plaintiffs’ extremely overbroad request for all documents relating to UMG, did Plaintiffs serve  
 23 the Jobs Deposition Subpoena.

24 In short, Plaintiffs have failed to meet the extremely high burden required to  
 25 justify an “apex” deposition, particularly of a non-party who has no personal knowledge of the  
 26 contractual issues in the underlying dispute.

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IV.

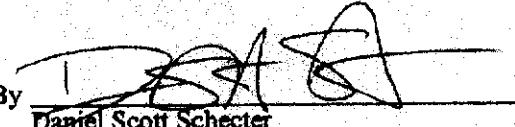
CONCLUSION

5 For the reasons set forth above, Apple respectfully requests that the Court grant its  
6 motion for protective order and prohibit the deposition of Steve Jobs.

7 Dated: March 24, 2008

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LATHAM & WATKINS LLP

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5 Daniel Scott Schechter  
6 Colin B. Vandell

7  
8 By   
9 Daniel Scott Schechter  
10 Attorney for Non-Party Deponent Steve Jobs

**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Latham & Watkins LLP, 633 West Fifth Street, Suite 4000, Los Angeles, California 90071. On March 24, 2008, I caused the foregoing to be served:

**NOTICE OF MOTION AND MOTION FOR PROTECTIVE ORDER TO QUASH  
"APEX" DEPOSITION SUBPOENA; MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

I caused the above document(s) to be deposited for facsimile transmission in accordance with the office practice of Latham & Watkins LLP for collecting and processing facsimiles. I am familiar with the office practice of Latham & Watkins LLP for collecting, processing, and transmitting facsimiles, which practice is that when a facsimile is deposited with the Latham & Watkins LLP personnel responsible for facsimiles, such facsimile is transmitted that same day in the ordinary course of business. The facsimile of the above document(s) was transmitted to the following parties: See the attached Facsimile List.

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Colleen M. Rico

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